



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

January 24, 2006

Representative David P. Currier, Chairman
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

SUBJECT: HB 1495, an act relative to setback requirements for landfills located near rivers

Dear Chairman Currier and Members of the Committee:

HB 1495 seeks to extend the setback requirement for new solid waste landfills from the existing 100 feet to 1,500 feet from the 500 year floodplain for rivers designated Rural, Rural-Community, and Community. The Department of Environmental Services (DES) supports the concept of establishing more protective river setbacks for landfills. However, DES is not aware of any technical justification for changing the current 100 foot setbacks to 1,500 feet, and therefore takes no position on the substance of HB 1495.

RSA 483:9 through :9-b currently establish solid waste facility setbacks from rivers designated as natural, rural, rural-community and community rivers. New solid waste facilities are prohibited within the corridor of natural rivers, defined as 1,320 from the normal high water mark or 100 year floodplain, whichever is greater. New landfills must be set back at least 100 feet from the 500 year floodplain adjacent to rural, rural-community and community rivers.

A 500 year flood is one that has statistically happened once in a 500 year time span. It is an extreme event with a large expected floodplain. Extending the setback for new landfills nearly one-quarter mile from the floodplain of this extreme event may be excessive and may unnecessarily limit the sites available for new landfills, which will be required in the future as we exhaust existing landfill capacity. Extending the setback requirement would also likely require new landfills to be sited in higher elevations, perhaps closer to the headwaters of designated rivers and in upland aquifer areas where the potential for environmental harm may be greater than in downstream and downland areas.

Setbacks such as those established in RSA 483 restrict the rights of riparian property owners. They are justified as an exercise of the state's police power when they are based on sound science. The re-setting of environmentally protective property setbacks should only be based on a careful assessment and balancing of ecological and private property interests

DES would be happy to work with interested parties on the issues presented by HB 1495. If you have any questions regarding this letter of testimony, please do not hesitate to call me or Tony Giunta, P.G. at 271-2905.

Sincerely,

Michael Nolin, Ass't. Comm.
for Michael P. Nolin
Commissioner

cc: Representative Frank Tupper
Representative Howard Dickenson
Representative David Babson
Representative James Powers
Senator Margaret Hassan
Senator Carl Johnson



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

January 25, 2006

Representative David L. Babson Jr., Chairman
Environment and Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

SUBJECT: HB 1551, an act establishing a committee to study incentives for reducing consumer solid waste for disposal in landfills and incinerators

Dear Chairman Babson and Members of the Committee:

HB 1551 seeks to study "pay-as-you-throw" programs and other incentives to reduce the amount of consumer solid waste disposed in landfills and incinerators. The New Hampshire Department of Environmental Services (DES) supports this bill.

DES supports recycling in all its forms to reduce demand on scarce landfill and incinerator capacity and to conserve natural resources. In its 2004 report to the legislature on solid waste, DES reported that the state's overall recycling rate was 32.4%, an increase over past years and a positive step in meeting our 40% recycling goal. However, the residential recycling rate during that same period was only 7.4% while the commercial rate was 25%. In 2004, the per capita disposal rate in New Hampshire was 6.1 pounds/person/day compared to a national average of 4.3 pounds/person/day. Unquestionably, a greater level of residential recycling can and should be achieved.

National and local data indicate that pay-as-you-throw programs have the effect of increasing recycling and lowering solid waste disposal rates. DES supports HB 1551 to study incentives to bring about an increase in recycling and a lowering of disposal rates.

DES appreciates the opportunity to testify in support of this bill. If you have any questions regarding this letter of testimony, please do not hesitate to call me or Tony Giunta, P.G. at 271-2905.

Sincerely,

Michael P. Nolin
for Michael P. Nolin
Commissioner

cc: Representative Frank Tupper
Representative John Cloutier
Representative Candace Bouchard
Representative Elizabeth Blanchard
Representative James Powers
Senator Margaret Hassan